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09/801,607	03/08/2001	Kevin Gene Kehne	AUS920010115US1	5318

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IBM CORP (YA)  
C/O YEE & ASSOCIATES PC  
P.O. BOX 802333  
DALLAS, TX 75380

EXAMINER

DUONG, THOMAS

ART UNIT PAPER NUMBER

2145

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/801,607

Applicant(s)

KEHNE ET AL

Examiner

Thomas Duong

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 November 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. This office action is in response to the applicants Amendment filed on November 26, 2004. Applicant amended *claims 1-2, 6-8, 11-28, and 32-33*. *Claims 1-36* are presented for further consideration and examination.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. *Claims 1, 4-6, 11-15, 17, 20-22, 27, and 30-32* are rejected under 35 U.S.C. 102(e) as being unpatentable over Kimball (US006028984A).

4. With regard to *claims 1, 11, 17, and 27*, Kimball discloses,
  - *directing, by an application, said data stream to said default port, said data stream intended by said application to be sent from said default port;* (Kimball, col.1, lines 60-64; col.2, lines 5-7; col.2, line 63 – col.3, line 5; col.3, lines 31-38, lines 53-57; col.5, lines 47-51)

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Kimball teaches of *"a computer that has both a first network connection (e.g., wireless modem) and a second network connection (e.g., a network port for direct hardwired connection) to a computer network such as an Ethernet network"* (Kimball, col.1, lines 60-64). Kimball teaches of a *"preferred default state [where] the switching subsystem [connects] the computer to the primary network interface device"* (Kimball, col.2, lines 64-66) and *"if the switching subsystem determines that network connectivity via the switching apparatus of the present invention is not connected to the network, the switching subsystem switches to couple the computer of a secondary network interface device, such as the wireless modem"* (Kimball, col.3, lines 31-36). Even though, Kimball's preferred embodiment has the primary network interface (i.e. Applicant's default interface) as being an Ethernet interface and the secondary network interface (i.e. Applicant's second port) as being a wireless modem port, Kimball clearly states that *"alternate embodiments could select the wireless modem as the primary (or default) device. Additionally, other embodiments allow the user to program his or her primary device selection"* (Kimball, col.1, lines 53-57).

- *responsive to detecting a request from a terminal, sending a signal from a processor to a hardware switch to redirect the data stream from said default port to a second port;* (Kimball, col.2, lines 5-7; col.3, lines 53-57; col.5, lines 47-51)  
Kimball teaches of *"[allowing] the user to program his or her primary device selection"* (Kimball, col.3, lines 55-57). Thus, the user can select which network interface device to be used in transmitting the data stream.
- *packetizing the data stream for transmission over said second port to form a packetized data stream; and* (Kimball, col.4, lines 35-37, lines 41-43)

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Kimball teaches of the network interface device and wireless modem

*"[comprising] of the [respective] interface logic that transmits and receives the data over the"* respective communication channels. (Kimball, col.4, lines 35-37).

- *sending, from said second port instead of said default port, the packetized data stream to a destination, said data stream being redirected from said default port to said second port without modifying said application.* (Kimball, col.1, lines 60-64; col.2, lines 5-7; col.2, line 63 – col.3, line 5; col.3, lines 31-38, lines 53-57; col.4, lines 35-37, lines 41-43; col.5, lines 47-51)

Kimball teaches of a *"preferred default state [where] the switching subsystem [connects] the computer to the primary network interface device"* (Kimball, col.2, lines 64-66) and *"if the switching subsystem determines that network connectivity via the switching apparatus of the present invention is not connected to the network, the switching subsystem switches to couple the computer of a secondary network interface device, such as the wireless modem"* (Kimball, col.3, lines 31-36). Even though, Kimball's preferred embodiment has the primary network interface (i.e. Applicant's default interface) as being an Ethernet interface and the secondary network interface (i.e. Applicant's second port) as being a wireless modem port, Kimball clearly states that *"alternate embodiments could select the wireless modem as the primary (or default) device. Additionally, other embodiments allow the user to program his or her primary device selection"* (Kimball, col.1, lines 53-57). Furthermore, Kimball teaches of the network interface device and wireless modem *"[comprising] of the [respective] interface logic that transmits and receives the data over the"* respective communication channels. (Kimball, col.4, lines 35-37).

5. With regard to claims 4-5, 15, 20-21, and 30-31, Kimball discloses,

- *wherein the packets are formed for transfer using a TCP/IP protocol.*
- *wherein the second port provides a connection to a local area network.* (Kimball, col.1, lines 60-64; col.2, lines 5-7; col.2, line 63 – col.3, line 5; col.3, lines 31-38, lines 53-57; col.5, lines 47-51)

Kimball teaches of “a computer that has both a first network connection (e.g., wireless modem) and a second network connection (e.g., a network port for direct hardwired connection) to a computer network such as an Ethernet network” (Kimball, col.1, lines 60-64). Kimball teaches of a “preferred default state [where] the switching subsystem [connects] the computer to the primary network interface device” (Kimball, col.2, lines 64-66) and “if the switching subsystem determines that network connectivity via the switching apparatus of the present invention is not connected to the network, the switching subsystem switches to couple the computer of a secondary network interface device, such as the wireless modem” (Kimball, col.3, lines 31-36). Even though, Kimball’s preferred embodiment has the primary network interface (i.e. Applicant’s default interface) as being an Ethernet interface and the secondary network interface (i.e. Applicant’s second port) as being a wireless modem port, Kimball clearly states that “*alternate embodiments could select the wireless modem as the primary (or default) device.*”

6. With regard to claims 6, 22, and 32, Kimball discloses,

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- *wherein the data stream is an outgoing data stream further comprising: receiving an incoming data stream, wherein the incoming data stream is packetized; and unpacketing the incoming data stream to form an unpacketed incoming data stream; and sending the unpacketed incoming data stream to an input/output unit associated with the default port.* (Kimball, col.4, lines 35-37, lines 41-43)

Kimball teaches of the network interface device and wireless modem

*"[comprising] of the [respective] interface logic that transmits and receives the data over the"* respective communication channels. (Kimball, col.4, lines 35-37).

7. With regard to claims 12-14, Kimball discloses,

- *wherein the bus system is a single bus.*
- *wherein the bus system includes a primary bus and a secondary bus.* (Kimball, col.3, lines 31-38)

8. Claims 7-10, 23-26, and 33-36 are rejected under 35 U.S.C. 102(e) as being unpatentable over Kimball (US006028984A).

9. With regard to claims 7, 23, and 33, Kimball discloses,

- *directing, by an application, said data stream to said default port, said data stream intended by said application to be sent from said default port;* (Kimball, col.1, lines 60-64; col.2, lines 5-7; col.2, line 63 – col.3, line 5; col.3, lines 31-38, lines 53-57; col.5, lines 47-51)

Kimball teaches of *"a computer that has both a first network connection (e.g., wireless modem) and a second network connection (e.g., a network port for*

*direct hardwired connection) to a computer network such as an Ethernet network” (Kimball, col.1, lines 60-64). Kimball teaches of a “preferred default state [where] the switching subsystem [connects] the computer to the primary network interface device” (Kimball, col.2, lines 64-66) and “if the switching subsystem determines that network connectivity via the switching apparatus of the present invention is not connected to the network, the switching subsystem switches to couple the computer of a secondary network interface device, such as the wireless modem” (Kimball, col.3, lines 31-36). Even though, Kimball’s preferred embodiment has the primary network interface (i.e. Applicant’s default interface) as being an Ethernet interface and the secondary network interface (i.e. Applicant’s second port) as being a wireless modem port, Kimball clearly states that “alternate embodiments could select the wireless modem as the primary (or default) device. Additionally, other embodiments allow the user to program his or her primary device selection” (Kimball, col.1, lines 53-57).*

- *receiving, from a terminal communicating with the computer system, a request to redirect the data stream to a desired port instead of said default port; (Kimball, col.2, lines 5-7; col.3, lines 53-57; col.5, lines 47-51)*

*Kimball teaches of “[allowing] the user to program his or her primary device selection” (Kimball, col.3, lines 55-57). Thus, the user can select which network interface device to be used in transmitting the data stream.*

- *sending, from a service processor, a signal to a hardware switch to redirect the data stream, said hardware switch coupled between said default port and an I/O processor included within said computer system, said I/O processor for controlling*



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*said default port; (Kimball, col.1, lines 60-64; col.2, lines 5-7; col.2, line 63 – col.3, line 5; col.3, lines 31-38, lines 53-57; col.5, lines 47-51)*

Kimball teaches of *“a computer that has both a first network connection (e.g., wireless modem) and a second network connection (e.g., a network port for direct hardwired connection) to a computer network such as an Ethernet network”* (Kimball, col.1, lines 60-64). Kimball teaches of a *“preferred default state [where] the switching subsystem [connects] the computer to the primary network interface device”* (Kimball, col.2, lines 64-66) and *“if the switching subsystem determines that network connectivity via the switching apparatus of the present invention is not connected to the network, the switching subsystem switches to couple the computer of a secondary network interface device, such as the wireless modem”* (Kimball, col.3, lines 31-36).

- *packetizing the data stream to form a set of data packets; and* (Kimball, col.4, lines 35-37, lines 41-43)

Kimball teaches of the network interface device and wireless modem *“[comprising] of the [respective] interface logic that transmits and receives the data over the”* respective communication channels. (Kimball, col.4, lines 35-37).

- *sending, from said desired port instead of said default port, the set of data packets to the terminal, said data stream being redirected from said default port to said desired port without modifying said application.* (Kimball, col.1, lines 60-64; col.2, lines 5-7; col.2, line 63 – col.3, line 5; col.3, lines 31-38, lines 53-57; col.4, lines 35-37, lines 41-43; col.5, lines 47-51)

Kimball teaches of a *“preferred default state [where] the switching subsystem [connects] the computer to the primary network interface device”* (Kimball, col.2,

lines 64-66) and *"if the switching subsystem determines that network connectivity via the switching apparatus of the present invention is not connected to the network, the switching subsystem switches to couple the computer of a secondary network interface device, such as the wireless modem"* (Kimball, col.3, lines 31-36). Even though, Kimball's preferred embodiment has the primary network interface (i.e. Applicant's default interface) as being an Ethernet interface and the secondary network interface (i.e. Applicant's second port) as being a wireless modem port, Kimball clearly states that *"alternate embodiments could select the wireless modem as the primary (or default) device. Additionally, other embodiments allow the user to program his or her primary device selection"* (Kimball, col.1, lines 53-57). Furthermore, Kimball teaches of the network interface device and wireless modem *"[comprising] of the [respective] interface logic that transmits and receives the data over the"* respective communication channels. (Kimball, col.4, lines 35-37).

10. With regard to claims 8, 24, and 34, Kimball discloses,

- *wherein the set of data packets is a first set of data packets and further comprising: receiving a second set of data packets from the terminal; and unpacketizing the second set of data packets to form an unpacketized data stream; and sending the unpacketized data stream to the hardware switch.*

(Kimball, col.4, lines 35-37, lines 41-43)

Kimball teaches of the network interface device and wireless modem *"[comprising] of the [respective] interface logic that transmits and receives the data over the"* respective communication channels. (Kimball, col.4, lines 35-37).

11. With regard to claims 9-10, 25-26, and 35-36, Kimball discloses,

- *wherein the desired port provides a connection to a local area network.* (Kimball, col.1, lines 60-64; col.2, lines 5-7; col.2, line 63 – col.3, line 5; col.3, lines 31-38, lines 53-57; col.5, lines 47-51)

Kimball teaches of *"a computer that has both a first network connection (e.g., wireless modem) and a second network connection (e.g., a network port for direct hardwired connection) to a computer network such as an Ethernet network"* (Kimball, col.1, lines 60-64). Kimball teaches of a *"preferred default state [where] the switching subsystem [connects] the computer to the primary network interface device"* (Kimball, col.2, lines 64-66) and *"if the switching subsystem determines that network connectivity via the switching apparatus of the present invention is not connected to the network, the switching subsystem switches to couple the computer of a secondary network interface device, such as the wireless modem"* (Kimball, col.3, lines 31-36). Even though, Kimball's preferred embodiment has the primary network interface (i.e. Applicant's default interface) as being an Ethernet interface and the secondary network interface (i.e. Applicant's second port) as being a wireless modem port, Kimball clearly states that *"alternate embodiments could select the wireless modem as the primary (or default) device."*

#### ***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 2-3, 16, 18-19, and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimball (US006028984A) and further in view of Ichimi (US006865687B1).

14. With regard to claims 2-3, 16, 18-19, and 28-29, Kimball discloses,

See *claims 1, 11, 17, and 27* rejection as detailed above.

However, Kimball does not explicitly disclose,

- *wherein the default port is a RS-232 standard port.*
- *wherein the data stream is a RS-232 standard data stream.*

Ichimi teaches,

- *wherein the default port is a RS-232 standard port. (Ichimi, fig.1)*
- *wherein the data stream is a RS-232 standard data stream. (Ichimi, fig.1)*

Ichimi teaches of a communication control device that includes a LAN port and a serial port, which can be associated with a RS-232 port. Furthermore, the term serial interface usually implies the use of an RS-232 interface and standard as known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Ichimi reference with Kimball reference to provide "a smooth, easy, seamless way to connect a computer to a network both in a fixed location and when the computer becomes portable with out requiring a complicated reconfiguration of the computer" (Kimball, col.1, lines 49-52). Even

though, Kimball's preferred embodiment has the primary network interface (i.e. Applicant's default interface) as being an Ethernet interface and the secondary network interface (i.e. Applicant's second port) as being a wireless modem port, Kimball clearly states that *"alternate embodiments could select the wireless modem as the primary (or default) device"* (Kimball, col.3, lines 53-55). However, Kimball's prior art teaches that *"the computer must be reconfigured to access the Ethernet port instead of the serial port to the modem"* (Kimball, col.1, lines 38-39) in the event where the preferred high-speed direct connection is available. Thus, Kimball provides a motivation for combining with the Ichimi reference, which teaches of a communication control device that includes a LAN port and a serial port, which can be associated with a RS-232 port. Furthermore, the term serial interface usually implies the use of an RS-232 interface and standard in the art.

### ***Response to Arguments***

15. Applicant's arguments with respect to *claims 1, 7, 17, 23, 27, and 33* have been considered but they are moot in view of the new grounds of rejection.

### ***Conclusion***

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not


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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Duong whose telephone number is 571/272-3911. The examiner can normally be reached on M-F 7:30AM - 4:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 571/272-6159. The fax phone numbers for the organization where this application or proceeding is assigned are 703/872-9306 for regular communications and 703/872-9306 for After Final communications.

*Thomas Duong (AU2145)*

*April 20, 2005*

  
VALENCIA MARTIN-WALLACE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700